

The Crimes of Fashion  
The Effects of Trademark and Copyright Infringement in the Fashion Industry

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### Abstract

Counterfeits of designer merchandise continue to be made and sold throughout the world causing drastic social and economic outcomes everywhere. Despite the illegality of manufacturing and distributing counterfeit goods, this business has far-reaching effects that society is not generally aware of. The evils of counterfeiting luxury goods include forced child labor, drug trafficking, and international terrorism as well as loss of billions of dollars in revenue to legitimate businesses and governments. The ancient Latin phrase “Caveat emptor” “Let the buyer beware” is still relevant today. Being made aware and being warned, society may be motivated to shut down this illicit business of counterfeiting designer goods.

### **The Crimes of Fashion**

The luring appeal of fashion can be an irresistible tonic presented in the form of an outfit, handbag, or pair of shoes. The question becomes, what are the costs? An original Gucci handbag can cost more than \$1,000. While some customers will empty their wallets or swipe their credit cards in order to pay for that merchandise with the designer label, others will buy the counterfeit bag that looks similar to the Gucci handbag with a cost around \$40. Although they both claim to be Gucci bags, one is a designer original; the second is an illegal counterfeit.

Many consumers believe that those who sell counterfeits are offering a service to those who cannot afford the more expensive authentic product (Chin, 2009). Some say that they buy the counterfeit products because of the weak economy. No matter what reason is given, manufacturing and selling fake or faux pieces of merchandise is a crime. Some people may not be aware of the differences among an original, "knock-off", and a counterfeit. According to the Merriam Webster Dictionary, an item that is "faux" is an imitation of the genuine article, and an "original" is the source from which a copy or reproduction is made. According to the Legal Dictionary, a "knock-off" is an illegal copy that sells for less than the original name-brand merchandise. This is another term for a counterfeit, an imitation that may be mistaken as the original and appear to have higher value. Faux items may be legally sold only if they are distinctly different from the original item. Knock-offs and counterfeits are imitations that may be sold as the original item; this is illegal.

### **Canal Street**

One of the most common places to visit while in New York City is Canal Street in Chinatown. Tourists, as well as local New Yorkers, like to visit Canal Street to purchase fake merchandise that looks almost exactly like the real thing (Xu, 2010). Many would not even

notice the difference.

Because people know that selling fake merchandise is illegal, sellers have found various new ways to let people know what they are selling. Many vendors whisper designers' names of luxury handbags like Louis Vuitton, Prada, Coach, and Gucci to those who walk by (Chin, 2009). If the customers are interested in seeing the products, they are taken to back rooms where the merchandise is displayed or taken to a van where the merchandise is being held. Customers can be put in danger by going to such great lengths as they seek an illegal bargain. There have been reports of customers who have been locked in basements or back rooms filled with illegal merchandise in Chinatown during police raids, which are very common in that area (Shmidt, 2006).

Law enforcement officials routinely patrol Canal Street due to the large volume of counterfeit merchandise sold in the area. Fake designer watches, handbags, and perfumes are sold at a fraction of the cost of the real designer merchandise. In 2007, undercover police officers pretended to be real shoppers in an area commonly called "Counterfeit Triangle," which covers Walker, Baxter, Centre, and Canal Street in Lower Manhattan (Hausser, 2008). The officers were able to buy fake designer merchandise for very low prices. As an example, they purchased a Prada handbag for \$40 that would originally cost \$1,000. The 40 undercover shopping sprees resulted in 32 shops in the area shut down, a civil lawsuit filed against the property owners, and about \$1 million worth of counterfeit items confiscated by the authorities (Hausser, 2008). According to New York City Mayor Bloomberg, the sales of counterfeit merchandise rob the city of \$1 billion in sales tax a year. He calls that system of selling counterfeit goods "an organized crime" (Hausser, 2008). Just after Thanksgiving in 2010, New York City's anti-counterfeiting squad raided a number of vendors on Canal Street, which resulted in the closure of 16 stores

(Grinspan, 2010). The vendors of the illegal goods were also the owners of 33 buildings on Canal Street. Those who live in the area blamed the vendors for turning the block into "a witches' brew of public nuisance" (Grinspan, 2010).

The New York City Police Department confiscated another \$1 million in counterfeit handbags and other faux items in Chinatown in 2009 (Rosen & Lucadamo, 2009). Ten buildings that housed 31 stalls filled with counterfeit watches, wallets, and bags were shut down by the police (Rosen & Lucadamo, 2009). The accessories that were in these buildings were knockoffs of Chanel, Cartier, Coach and Gucci. Buying an expensive product at a lower price is not wrong. New York Mayor Bloomberg explains, "There is nothing wrong with somebody getting a less expensive product, but you can't use the name of a more expensive product and sell it as though that is what it was" (Rosen & Lucadamo, 2009).

It seems as if the fashion industry has become a major financial supporter of the New York City Police department. Some fashion labels have hired private investigators to track down the counterfeiters, which indicate the seriousness of the crime to those who work in the fashion industry (Grinspan, 2010). It seems Canal Street will become more quiet as stores that sold knock-offs are being shut down and as two new hotels are being built with the hope that Canal Street will be transformed. One New York police officer even said, "Very soon, locals say, Canal Street will join Times Square, Astor Place, the Lower East Side, the Garment District and all the other former centers of down-and-dirty capitalist grit that have been safely gentrified" (Grinspan, 2010).

### **Trademark Protection**

The reason the making and selling of counterfeit merchandise is illegal is because it violates trademark and copyright law. The current trademark legislation in the United States of

America is the Lanham Act (Jiminez, 2009). The act specifically defines the statutory and common laws for trademarks and service marks. A trademark is a company's logo, symbol, or design that is used to enable the public to identify the sources of merchandise (Cross & Miller, 2009). Trademarks allow the public to distinguish one company's products from another. By obtaining a federal registration from the Patent and Trademark Office, it makes it illegal for another to use that same registered trademark.

### **Copyright Protection**

A copyright is the right of an author or originator of a literary or artistic work, or other production that falls within a specified category, to have the exclusive use of that work for a given period of time (Tysver, 2010). Like trademarks, copyrights can also be registered by the Copyright Office in the Library of Congress, but registration is not required (Tysver, 2010). The copyright law in the United States is governed by the Copyright Act of 1976. Under the Act, it is illegal to copy a work registered by the owner of the work. Protection is automatic since registration is not required. Copyright protection lasts for the life of the author plus 70 years (Tysver, 2010). Copyrights owned by publishing houses expire 95 years from the date of publication or 120 years from the date of creation, whichever is first (Tysver, 2010). This applies to works by more than one author, in which case the copyright expires 70 years after the death of the last surviving author. The current copyright law does not protect designs made by the fashion designers. However, Congress is considering a new bill known as the Innovative Design Protection and Piracy Prevention Act, which will protect fashion designs for three years after the designers stop manufacturing them (Martin, 2010).

### **Protecting Intellectual Assets**

The threats to the fashion industry include competitor designers, retail stores, vandals, hackers, thieves, or terrorists. One of the most significant security issues that corporations face today is the loss of intellectual assets (Farley, 2002). Most importantly, businesses face issues with trademark protection. These issues typically were satisfied by using legal techniques to protect the marketplace value of property due to its uniqueness or originality (Farley). The assets or properties, like fashion design, that are not awarded legal protection are at a greater risk today. The reasons for this may be that they are products in development, unprotected technologies, or marketing plans (Farley). By not treating these assets as true property with relevant worth, businesses can become vulnerable to threats and may not even be aware of their loss (Farley).

### **Counterfeit Cases**

Counterfeit merchandise has been sold by well-known retailers (Diaz, 2010). Those who are searching for a deal appreciate finding a great price on a designer product at a well known discount store. Stores like Filene's Basement, T.J. Maxx, Century 21, Marshalls and Burlington Coat Factory are known for their great deals on legitimate merchandise, so people assume that they are buying the real thing. This is not always the case.

Filene's Basement had to make a \$2.5 million payment to Fendi, an Italian designer label, for allegedly selling counterfeit Fendi merchandise to its customers (Diaz, 2010). Fendi also sued Burlington Coat Factory for violating its trademarks. It appears that Burlington Coat Factory had been buying and selling counterfeit Fendi products for decades (Diaz, 2010). Fendi is not the only designer label that had to sue retailers for violating the law; there are a number of cases of this type of occurrence. Designers have to do everything they can in order to protect their brand.

Although most cases of counterfeit merchandise take place in New York City, Los Angeles has had cases involving counterfeit items as well. The largest counterfeit merchandise sweep by law enforcers in Los Angeles history occurred in November of 2009 (IACC, 2011). Fake items of Louis Vuitton, Prada, CHANEL, Ed Hardy, and other brand name labels were found in the sweep. Nearly \$18 million worth of counterfeit goods were seized by the Los Angeles police department, and more than sixty arrests were made (IACC, 2011). The product that most shocked the public was fake cigarettes (IACC, 2011). This is an example of how counterfeiting not only occurs within the fashion department but can occur with all products. Bob Barchiesi, president of the International AntiCounterfeiting Coalition, stated that of the 750,000 jobs lost due to counterfeiting, 100,000 of those jobs lost were in Los Angeles. In 2005, Los Angeles lost \$40 million due to counterfeit products (IACC, 2011).

CHANEL is one of world's largest luxury goods companies. This company designs, manufactures, and distributes beautiful handbags, cosmetics, fragrances, shoes, scarves, sunglasses, and costume jewelry. These products are sold through their boutiques and 110 ready-to-wear locations worldwide (Brenner, 1995).

Since CHANEL items are highly coveted by consumers, counterfeit items carrying the CHANEL name are sold in large quantities. Although there are fashion labels that do not do much to prevent the vendors who sell fake items to customers, CHANEL has a "no tolerance" policy when it comes to counterfeiting (Brenner, 1995). Veronica L. Hrdy, who is the Vice President-Counsel of CHANEL, exclaimed:

CHANEL is very pleased by the successful and cooperative efforts of the Los Angeles Police Department which resulted in the multiple arrests of retailers of counterfeit CHANEL merchandise. We believe that law enforcement action and criminal prosecution

are the only effective means of thwarting the widespread counterfeiting industry.

(Brenner, 1995)

CHANEL as an active member of the International Anti-Counterfeiting Coalition helped lobby in Washington D.C., to increase the penalties given to those who sell and distribute counterfeit items (Brenner, 1995). This company has also been involved with a federal three year undercover operation called Operation Pipeline which looks for facilities that manufacture the counterfeit items being sold to people. Operation Pipeline then they raid the area and confiscate all of the counterfeit merchandise (Brenner, 1995).

### **Counterfeits on the Internet**

Today, it is very common for people to do much of their shopping in the comfort of their own homes. So, it is no surprise that there are those who are selling counterfeit goods online as well. This is also an illegal activity. Because Cyber Monday is the largest online shopping day of the year, the Department of Justice and Homeland Security took advantage of this and was able to shut down 82 website domains selling counterfeit goods.

The most successful internet industry seems to be the fraud business (Kong, 2007). Over \$119 billion worth of knock-off merchandise was sold in 2007 (Kong). Counterfeit watches, shoes, apparel, and handbags can all be found on the internet. Although companies are doing everything within their power to shut down these websites, but they have a difficult task. As a result, many companies utilize MarkMonitor to deal with the problem. President of the International AntiCounterfeiting Coalition Nils Montan exclaims, "There's no other way to do it. The Internet is simply too big just to have somebody doing Google searches for counterfeit products. You'd go insane" (Kong).

Headquartered in San Francisco, California, MarkMonitor is the global leader in enterprise brand protection. The corporate vision of MarkMonitor is to offer solutions that allow an enterprise to establish and defend its brands against multiple online risks. It has a way to access data and detect unauthorized channels which will allow a more secure internet for both customers and enterprises.

H&M Hennes & Mauritz AB, a well-known retail chain, was experiencing problems with counterfeit forms of their merchandise being sold on the internet. It has also chosen to use MarkMonitor's Auction Monitoring solution to find, identify, and remove online counterfeit sales found on websites (Security Info Watch, 2011). H&M along with other companies in the fashion industry know that it is highly competitive to sell their merchandise in the current economy. The illegal selling and merchandising on internet auction sites result in both significant loss of revenue and brand erosion (Security Info Watch, 2011).

Auction Monitoring, a part of MarkMonitor's protection software, is widely used to stop unauthorized product sales. The software provides companies with a way to monitor how their products are being sold online (Security Info Watch, 2011). The company can find the seller, location, and profile of the counterfeit seller. Email alerts are even sent to the company if suspicious online actions or websites are found (Security Info Watch). This process has been proven to be so successful that many companies are buying these softwares in order to have more brand protection.

Bjorn Norberg, General Counsel at H&M, said he had suspected that their products were being sold illegally online (Security Info Watch). The problem was that they just could not find a way to track down and identify the counterfeit sellers. He says:

MarkMonitor will help us to better utilize internal resources by effectively scaling a previously time-consuming process, enhance the overall security of the company with in-depth monitoring of online fraud activities, and minimize revenue losses from counterfeit and gray market goods, so we can continue to provide quality fashion at the affordable prices that we are known for. (Security Info Watch)

MarkMonitor's new Site Staydown Service targets the numerous websites that pop up in a search for a popular brand (Scafidi, 2010). Websites that sell fake merchandise are then shut down. Customers who attempt this process realize that it is a long process of extra clicking on different links; they question whether a particular site is offering authentic discounted merchandise or cheap counterfeit merchandise. MarkMonitor's goal is to get fake-selling sites down and keep them down (Security Info Watch, 2011). Although there are about two dozen other companies that are also using technology to search for counterfeit websites, MarkMonitor has earned a reputation of being the most effective. MarkMonitor's revenue has grown by 50 percent to \$25 million (Kong, 2007). MarkMonitor has about 500 corporate clients that pay fees that start from \$50,000 annually (Kong, 2007). To those companies, this is just a small price to pay in order to save millions of dollars in counterfeit sales.

### **EBay**

LVMH Moët Hennessy Louis Vuitton is a maker of high-end luxury items. In 2008, the company was able to successfully challenge eBay in a French court (Carvajal, 2008). Almost 90 percent of the Louis Vuitton bags and Dior perfumes that are sold on eBay are fake (Carvajal, 2008). Not only does the selling of counterfeit merchandise cheat the customers who purchase these products without realizing that they bought fake items, but the sales also hurt the brand label company itself.

Ever since eBay came into existence, the website has done everything it can to avoid the counterfeiting problem. Not only does eBay remove auctions selling counterfeit merchandise, it also asks companies to watch auctions of their products as well. eBay also delays some listings from being published to the website because its employees need time to review the items first (Carvajal, 2008). However, many honest sellers started complaining of this process because it delayed their making a profit.

Since the French court ruled that eBay was not doing enough to keep counterfeit sales from occurring in their website, eBay was ordered to pay 38.6 million euros (in US \$60.8 million) in damages to the French luxury goods company LVMH Moët Hennessy Louis Vuitton (Carvajal, 2008). Other companies are not quite so lucky.

In April of 2010, the well-known American jewelry company Tiffany & Co. claimed that eBay should be held liable for allowing listings of fake Tiffany items on its website (Fox, 2011). eBay does not deny knowing that there is a large amount of counterfeit listings on their website. However, they are doing everything possible to prevent this. "When counterfeits appear on our site we take them down swiftly," eBay claims (Fox, 2011). Judge Robert Sack ruled in favor of eBay because "An online advertiser such as eBay need not cease its advertisements for a kind of goods only because it knows that not all of the goods are authentic. A disclaimer might suffice" (Fox, 2011).

Ebay knows that there is a likely chance that someone may be selling fake merchandise online, so a guide on how to avoid buying counterfeits is posted on its website. Also posted are some guidelines of what can and can't be listed on eBay (Ebay, 2011). Homemade movies which the seller owns the rights to; music the seller wrote, recorded, and owns the rights to; and photos the seller captured himself and owns the rights to; are all allowed in eBay listings (Ebay, 2011).

Unauthorized and pirated copies of movies, music, photos, software, video games, and softwares cannot be listed on eBay. Counterfeits and replicas of brand name items like handbags, scarves, sunglasses, wallets, watches, and other accessories are not allowed in eBay listings as well (Ebay, 2011). Those who violate those guidelines may have their listings removed. The sellers may also end up having a limit of buying and selling privileges or even have their account suspended.

### **Innovative Design Protection and Piracy Prevention Act**

In order to protect designers from others who copy and sell their designs, New York Senator Chuck Schumer introduced the Innovative Design Protection and Piracy Prevention Act as legislation. This bill will allow designers to file for copyright protection for their individual patterns and designs. "Knock off a dress design and go to jail" (Ellis, 2007). If this bill becomes law, it will not completely abolish all of the counterfeits, but it will limit their availability.

Trademark laws currently protect designer logos, and patent laws protect innovative or ornamental design elements (Martin, 2010). Although prints and artwork are protected by intellectual property laws, fashion designs are not protected under the current copyright laws (Furstenburg, 2007). In 2007, fashion designer Nicole Miller along with others went to Capitol Hill to lobby lawmakers who have jurisdiction over intellectual property laws; they urged legislators to stand by the Design Piracy Prohibition Act (Ellis, 2007). Miller shows her concern and states:

Design piracy denigrates the integrity of the style. This year, we have been copied more than we have in past years. With this legislation, people will be deterred from making everything too literal. It's the line-for-line copies that bother me. (cited in Ellis)

The Innovative Design Protection and Piracy Prevention Act has only been passed by the Senate Judiciary Committee and still needs the approval of both the Senate and House of Representatives before being presented to the President of the United States (Scafidi, 2010). If passed, this bill would be a great help to designers to protect their new fashion designs for three years after the designer stops manufacturing them instead of three years from the date that they are registered (Copyright, 2006). The fashion designs for apparel, handbags, footwear, belts and eyeglass frames would be covered. This bill would also help set up penalties for designers or companies who make and/or sell counterfeits of the original designs of others. The fine would be \$250,000 or \$5 for each copied item, whichever was more (Ellis, 2007).

The Innovative Design Protection and Piracy Prevention Act would also help stop retailers from selling merchandise that are complete copies of their designs. Forever 21 is an example of a retail store that has been selling merchandise very similar to designer clothing. Under current law, designers cannot copyright clothing to protect the basic design of their clothes. If the Innovative Design Protection and Piracy Act is passed, it will become illegal for stores to sell those pieces of merchandise and help protect intellectual property (Streib, 2010).

### **How to Spot a Fake**

Many consumers have found themselves in embarrassing situations the merchandise that they bought was discovered to be a fake or a counterfeit item. Even the smartest and savviest shoppers can get fooled (Han, 2009). The reason for this is that counterfeit items are looking more real. Because the makers do a great job of imitating the name brand merchandise, it is harder for police to identify the sellers of illegal merchandise.

According to the Korea Customs Service (KCS), there were over 323 cases of fake items imported and exported in 2001 (Han, 2009). In 2009, there were 746 cases of fake items found

(Han). The numbers are still increasing. Although some buyers know they are buying a fake item, others do not know and get ripped off. Kim Hae-woo, a customs service official, said, "Knock off items are a huge problem because it hurts people's trust in the consumer market"

(Han). The luxury brands that are counterfeited the most include Louis Vuitton, Chanel, Gucci, Prada, Cartier, and Fendi (Han).

A few guidelines that can help shoppers spot imitation merchandise are given to those shoppers who are unsure whether they are buying an authentic item or not. The first step is to do thorough research (Han, 2009). Consumers should never believe everything that sellers say (Han, 2009). Customers need to be cautious and make sure that specific designs really do exist. For example, if one has never seen a neon Fendi bag, then that bag most probably does not exist.

One should never rush into buying anything. It is best to take some time and inspect the product before making the purchase (Han, 2009). This is one reason why online shopping can be tricky. Although there are sellers that show pictures of the inside and outside of the merchandise, it is very hard to know from the pictures if the item is real (Han). This causes online shopping to be very dangerous to shoppers. Details are very important. If shoppers can take the time to look at the tiniest of details to make sure that they are buying authentic items, they can be saved from making a counterfeit purchase. Zippers and handles of handbags should not look flimsy or clumsy (Han). Some shoppers even find it helpful to know the amount of space there should be between letters of the label.

Extra things to look for when making purchases is the way the merchandise is packaged (Han, 2009). Luxury goods would never be packaged in cheap plastic bags. A good tip to use when online shopping is to make sure that dust bags, boxes and authentication cards are all included within the purchase. Unfortunately, there have been cases in which identity cards have

been made up (Han, 2009).

One of the most copied labels in the world is the black and brown Fendi logo with the two mirroring F's (Passariello, 2006). It used to be very easy for Fendi representatives to automatically be able to tell an authentic Fendi item from a fake one, but now it seems to be harder. Fendi is well known for its alligator skin, gold zippers, and straight stitching in its handbags (Passariello). Because Fendi knock-offs are starting to look more like the authentic item, Fendi is now adding another touch to its items: holograms. Although this is a great idea, they are not the first luxury goods company to do this. Italian fashion house LVMH Moët Hennessy Louis Vuitton, which is the world's largest luxury-goods company, has also been stitching holograms into all of its merchandise (Passariello).

The hologram is a rectangular, colored stamp that has encrypted codes that can only be seen with a special magnifying structure (Passariello, 2006). This helps Fendi representatives and police officials to quickly identify a fake Fendi from an authentic one. Chief executive of Fendi Michael Burke says, "The best way to fight counterfeiting is to stay ahead" (Passariello). The amazing thing about this hologram is that it contains a wireless tracking device which will let Fendi officials know if one of their products has been stolen or has been sold from a store (Passariello). Customers need to know that these tags are deactivated once that product is sold.

Counterfeiters seem to be improving the quality of their products every year, so luxury brands are finding as many ways to let consumers know if they are buying a fake item (Passariello, 2006). There was a report from the police department in Naples that a warehouse was found with photocopiers that were being used to make fake holograms to fool both police officials and customers (Passariello, 2006). This is why both Fendi and Louis Vuitton are trying to educate their consumers to know how the real hologram looks.

### **International AntiCounterfeiting Coalition**

The International AntiCounterfeiting Coalition, also known as the IACC, is the world's largest non-profit organization that is solely devoted to protecting intellectual property. Its goal is to completely stop counterfeiting. Membership into the IACC not only includes those in the luxury goods department, but it also includes those in the automotive, software and entertainment, apparel, pharmaceuticals, and food industry (IACC, 2011). Both large and small enterprises that take part with the International AntiCounterfeiting Coalition share the goal to fight counterfeiting and piracy (IACC).

Bob Barchiesi, President of the International AntiCounterfeiting Coalition, says that every dollar that is spent on a fake item is one less going to a legitimate business and to the nation's economy (IACC, 2011). Counterfeit items of different brands like Nike, Coach, Polo and Louis Vuitton are being sold rapidly, so investigators have been tracking these vendors. The merchandise has even been found in small warehouses where they could be distributed to other sellers (IACC). When the investigators are able to go undercover as a trader, they bring in representatives of the brand labels so that they could identify the fake merchandise (IACC). Although fake items are usually sold on the street, the fake items are finding their way onto shelves at retailers. The U.S. Chamber of Commerce says that the selling of counterfeit goods is costing the United States up to \$250 billion for lost sales each year and causing a loss of 750,000 jobs (IACC). Investigators state it is getting more difficult to determine what is fake and what is not, because the counterfeiters are getting smarter.

### **Fakes are Never in Fashion**

What can be done to help stop trademark and copyright infringement? *Harper's Bazaar*, a fashion magazine, started taking a stand in 2005. Their campaign is called Fakes Are Never In

Fashion, and it is dedicated to exposing the criminal activities of selling counterfeit luxury goods (Bazaar, 2010). Senior Vice President of *Harper's Bazaar* Valerie Salembier says that she knows that the magazine cannot change legislation or enforce laws that do exist but it can send its message to the consumers (Larocca, 2010). This magazine wants to let its readers know that consumers buying a fake product are engaging in a criminal activity. The result is their support for an anti-counterfeiting initiative, and all the editors of *Harper's Bazaar* are standing by this campaign as well.

Although it is illegal to make and sell counterfeit items, it not illegal to own them. In France, however, a person found with a counterfeit merchandise has to pay a high fine for the crime (Bazaar, 2010). *Harper's Bazaar* magazine also points out that this crime is also linked to forced child labor, drug trafficking, and terrorism (Larocca, 2010). These crimes will be explained more in detail later in the paper. If the buyers of the counterfeit merchandise, especially women, know where their money is going, they will most likely stop buying the fake products.

Most people think only handbags, shoes and watches can be counterfeited. The truth is that everything can be sold as a fake. Toothpaste, cheese, airplane parts and pharmaceuticals have been found on shelves with a name brand label, when in reality they were not authentic items (Bazaar, 2010). This is no longer just a robbery in quality for a handbag; the results of counterfeiting can have a health impact on the consumer. Safety is becoming a large issue especially in the pharmaceutical area. A counterfeit fragrance brand can contain urine, and the bacteria can hurt the consumer (Bazaar, 2010). Even fake toys could break down easily or can contain lead because they did not comply with child safety laws. These issues raise many concerns.

*Harper's Bazaar* magazine's main goal is to educate consumers that counterfeiting is a \$600 billion illegal business, and the articles included in the magazine show the consequences of counterfeiting (Larocca, 2010). One of the articles allowed the readers to take a close look where children, mostly around eight years old, were working in sweatshops while chained to the machineries (Goodwin, 20006). They were even sleeping on cold damp floors. By buying a counterfeit item, one is unknowingly supporting that type of industry.

How can readers help *Harper's Bazaar* with their initiative to anti-counterfeiting? First, they must stop buying the counterfeit merchandise. Second, *Harper's Bazaar* is pushing readers to send in their fake handbags, watches, wallets, and perfumes. If they have a story to go along with it, they are welcome to write an email to the magazine as well. Third, readers need to spread this news.

In partnership with the Italian Intellectual Property Rights Desk at the Italian Trade Commission, *Harper's Bazaar* Magazine was able to welcome more than 150 senior fashion and beauty executives, intellectual property rights lawyers, and law enforcement officials for the Sixth Annual Anticounterfeiting Summit on May 8, 2010 (Bazaar, 2010). Every year there is a meeting to discuss ways to put a stop to counterfeiting. This gathering started in 2004 and has proved to be very successful (Bazaar, 2010). Fashion designers like Diane Von Furstenburg have been interested in taking a stand against counterfeiting. These illegal acts not only hurt their company, but they also hurt their customers (Furstenburg, 2007).

This year's anticounterfeiting summit was more focused around internet sales of counterfeit fashion, fragrance, food, and film rather than focusing on counterfeit sales in Canal Street (Bazaar, 2010). Juan Carlos Zarate, Senior Adviser to the Center for Strategic and International Studies, and the Senior National Security Consultant and Analyst for CBS News,

opened up the summit and was also the keynote speaker (Bazaar, 2010). He discussed the counterfeiting business and how it related to terrorism. Many people are shocked to learn that the sales of counterfeit items help fund terrorism.

Frederick Mostert, author of *From Edison to iPod*, a book about protecting intellectual property, says that it is sometimes very hard for consumers to tell the difference between an authentic item and a fake item (Bazaar, 2010). To help consumers with this problem, editors of *Harper's Bazaar* have been finding ways to educate women to spot designer knockoffs quickly. One tip given in spotting fake goods is by putting a drop of water on a Rolex watch. On an authentic Rolex, the water will bead, while on the fake Rolex, the water will just smear (Bazaar). Senior Vice President of *Harper's Bazaar* Valerie Salembier along with other editors have been seen in ABC News, NBC News, Fox News, The Today Show, and the Tyra show to show audiences ways to easily spot a fake.

### **Child Labor**

United Nations Children's Fund (UNICEF), an organization whose goal is to help build a world where children's well-being is protected, defines child labor as work that exceeds a minimum number of hours (Unicef, 2011). Forced child labor depends on the age of a child and on the type of work that he is made to do. Although not all work is detrimental and exploitative, work that is harmful to the child is illegal (Unicef, 2011).

In the United States of America, the Department of Labor under the Bureau of International Labor Affairs (ILAB) is the only federal agency that monitors child labor (Apparel Search, 2011). This agency also enforces the child labor laws. The Fair Labor Standards Act (FLSA) is the most complete federal law that restricts the employment and abuse of child workers (Apparel Search, 2011). This act gives the amount of hours that children under 16 years

of age can work. It also gives a list of the dangerous occupations that young workers are not allowed to perform. The child labor provisions under the Fair Labor Standards Act are specifically designed to protect the educational opportunities that they may miss and to prohibit any health and safety issues that may hurt youth (Apparel Search, 2011). The Wage and Hour Division of the Department's Employment Standards Administration enforces and handles all of the child labor provisions.

YouthRules! was launched by the U.S. Department of Labor in May 2002 (Apparel Search, 2011). It was founded with a goal to increase public awareness of Federal and State rules concerning workers in their youth. The U.S. Department of Labor and its associates look to promote a positive and safe work experience that can be rewarding for young workers and can provide great opportunities for teens (Apparel Search, 2011). This will help prepare them to enter the 21st Century workforce by learning work skills that can be used in the future (Apparel Search, 2011). Many teens work in part-time or summer jobs though YouthRules!. Federal and State rules involving young workers try to find a balance between finding sufficient time for educational purposes and great work experiences (Apparel Search, 2011).

Although it seemed as if the hardships of child labor were put to an end, there are still many cases in which children are working endlessly to make clothes in working conditions that are close to slavery as it can be (Goodwin, 2006). Gap is one of the most well-known fashion brands with a public commitment to social responsibility. Bhuwan Ribhu, a Delhi lawyer and an activist for the Global March Against Child Labour, says "Employment by subcontractors ultimately supplying major international retail chains of bonded child slaves as young as 10 in India's illegal sweatshops tells a different story" (cited in McDougall, 2007).

In the back streets of New Delhi, an undercover *Observer* investigator looks at the

hardships that minors go through to make clothing that will eventually be sold in the West for the international fashion company Gap. The first minor the observer sees is a boy named Amintosh, who is only 10 years old struggling to make a blouse (McDougall, 2007). He watches as Amintosh carefully pulls the loops of thread through tiny plastic beads and sequins on a blouse that is made to fit a toddler (McDougall, 2007). Oddly enough, his Hindi name means happiness, which he definitely does not appear happy as beads of sweat run down his face. He works at least 16 hours a day hand sewing clothing in a filthy unit with more than 12 other children (McDougall, 2007).

Although Gap claims that they did not know this abuse was going on in India, others say that they should have seen this coming from outsourcing with India. A Gap representative said:

At Gap, we firmly believe that under no circumstances is it acceptable for children to produce or work on garments. These allegations are deeply upsetting and we take this situation very seriously. All of our suppliers and their sub-contractors are required to guarantee that they will not use child labour to produce garments. (McDougall, 2007)

The Gap Corporation even has a policy in which it says that if it discovers that children are being used by contractors to make the clothing, the contractor must remove the child from the workplace. The contractors then need to provide the child with access to proper schooling and include a wage (McDougall, 2007). The child needs to be guaranteed the opportunity of work once he reaches a legal working age.

According to Amintosh, he was brought from his parents' village to work in the city so that his parents would not be sent to work in the farms. He says:

My father was paid a fee for me and I was brought down with 40 other children. The journey took 30 hours and we weren't fed. I've been told I have to work off the fee the

owner paid for me so I can go home, but I am working for free. I am a shaagird [a pupil].

The supervisor has told me because I am learning I don't get paid. It has been like this for four months. (McDougall, 2007)

The discovery of the sweatshops can cause a major dilemma for Gap. Now that Gap knows that their vendors have violated their agreement, they are endeavoring to stop forced child labor. There have been a couple of cases in which counterfeit Gap merchandise has been sold. According to sources, the sales from these counterfeits are being used to fund forced child labor as well (Larocca, 2005).

### **Drug Trafficking**

The selling of counterfeit goods has funded drug trafficking. In February of 2011, a Mexican drug cartel called La Familia Michoacana was sent to court for selling counterfeit Microsoft software (Epstein, 2011). Not only did the sales of the fake copies of the Microsoft programs cause the sellers to be well-off, but they also helped fund kidnappings, drug trafficking, and other criminal activities (Epstein, 2011). Microsoft's Associate General Counsel that deals with worldwide anti-piracy and anti-counterfeiting is David Finn. He wrote in a blog, "An important theme that resonated among the international groups is the number of organized criminal gangs that rely on the profits gleaned from pirated software to fund other crimes" (Epstein, 2011). The Familia cartel was earning more than \$2.2 million every day, which is over \$800 million in a year, from the sales of the counterfeit merchandise (Epstein, 2011).

According to prosecutors in the office of U.S. Attorney Loretta Lynch in Brooklyn, Jian Hu and Lin Hu were siblings who worked in a business that was involved in importing and exporting goods (Slind-Flor, 2010). In November of 2010, it turned out that these two siblings were a part of a six-year trafficking operation that specialized in selling counterfeit Ralph Lauren

merchandise. As punishment, they were authorized to pay \$14,425.91 in compensation to Polo Ralph Lauren Corporation, \$495 to Coalition to Advance the Protection of Sports Logos (CAPS), and they prohibited from ever working in a business involving import-export (Slind-Flor, 2010). Jian Hu and Lin Hu also faced sentences of 10 years in prison (Slind-Flor, 2010).

### **Terrorism**

Counterfeiting used to be considered a relatively low priority to the police, but with today's concern about national security, that appears to be changing. A 12News undercover investigation that went on for six months found out that house parties, gatherings in which people would buy counterfeit merchandise in people's homes, are linked to an organized crime. This crime is terrorism.

Barbara Kolsun is the trademark attorney for the Kate Spade fashion label. She says that the company's largest problem seems to come from these house parties, where mostly counterfeit handbags would be sold (WISN, 2011). The 12News investigators were able to secretly attend house parties in a \$500,000 Fox Point home and a \$250,000 ranch house in Brookfield, Wisconsin. They found counterfeit handbags everywhere. The living room, dining room, kitchen, and family room were filled with handbags bearing the labels of Kate Spade, Prada, Gucci, and Louis Vuitton (WISN, 2011). According to the investigators, there are many women who get very excited to attend the purse parties at people's houses because of the offer to buy a normally expensive bag for a much smaller price. A handbag that has a Kate Spade fashion label may be bought for only \$30 to \$60, while that same bag may cost \$150 to \$300 in department stores (WISN, 2011). Payments have to be in cash to make it easier for the sellers to collect their profit. The reason the bags are so cheap is because they are counterfeit. Colleen Henry, a 12 News investigator, said, "At those prices, the bags and bag ladies fly out the door" (WISN, 2011).

Research shows that there are many women who make a business out of selling counterfeit bags. When confronted, some women admitted that they would buy fake handbags in bulk in New York City's Chinatown and Los Angeles' garment district (WISN, 2011). The designer label is protected by federal and state law, so selling counterfeit handbags is a crime that could cost someone some time in jail (Rubbin, 2007). While the investigators tried to inform the women who bought the bags that they were participating in a crime, they did not seem to want to listen. Owning the coveted bag seemed to be more important to them.

Kate Spade Barbara Kolsun says that there is evidence that was developed by the FBI that shows that the sale of counterfeit goods helped finance the 1993 World Trade Center bombing (WISN, 2011). "They're supporting organized crime. They're supporting terrorism. They're hurting the economy," Kolsun says (WISN, 2011). Kolsun, along with other attorneys, are now making it their priority to shut down counterfeit sellers' businesses by pressing criminal charges and a lawsuit when possible.

### **Conclusion**

Progress in stopping counterfeiting is slow, but something must be done to put an end to this illegal activity. People are enamored with a brand name and want to buy a fake bag or watch that looks similar to the designer merchandise. It doesn't seem to matter to the buyers that the merchandise is of a lesser quality. Consumers need to know where the profits of their purchases go: child labor, drug trafficking, and terrorism. If they are informed about the harmful effects of counterfeiting, this crime could be stopped. The money that is spent on a counterfeit can instead go to a legitimate business and help support our nation's economy.

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